IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2614 OF 2005

All India Petroleum Works Union. ... Petitioner

Versus.

Union of India and others. ... Respondents.

Ms.Gayatri Singh for the Petitioner.

Shri Rajiv Chauhan i/by Shri T.C.Kaushik for Respondents Nos.1 & 2.

Shri Siodia i/by M/s.Rustomji & Ginwala for Respondent No.3.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 20th FEBRUARY, 2006.

P.C.:

1. Heard Ms.Singh in support of this petition. Shri Chauhan appears for Respondents Nos.1 and 2 and Shri Siodia for Respondent No.3. Rule. Respondents waive service. The learned Counsel are heard.

2. The petition seeks to challenge the order dated 30th May 2005 passed by the Under Secretary, Ministry of Labour declining to refer the dispute raised by the Petitioner for adjudication. The Petitioner-Union has raised a demand with respect to the appointment of dependant of deceased employees on compassionate ground as also employment to the dependant of the employees separated due to permanent disablement. The demand has been rejected on the following grounds:

"The issue of compassionate appointment to dependents of deceased employees/employees separated due to permanent disablement as such does not constitute an industrial dispute. However, it is noted that a settlement to this effect was arrived at between the management and all the unions functioning in the Corporation when the union which has raised the dispute was not in existence then. The management is not able to provide appointment on compassionate grounds due to surplus manpower. They have also notified VRS to their employees. However, it is seen that the management is willing to discuss the issue again with all the unions operating in the Corporation for the purpose of arriving at an amicable settlement of the issue."

Shri Siodia appearing for the 3rd Respondent submits that under the presently governing settlement, the scheme for such employment has been given up, but a separate provision has been made. According to Ms.Singh such a provision for compassionate employment very much exists.

4. In our view all these aspects ought to be gone into by the Regional Labour Commissioner, Central, and

Shri Siodia appearing for the 3rd Respondent has no objection to the conciliation being revived before the Officer concerned. He is making this statement on the instructions of Shri Shetty, Manager Industrial Relations of the 3rd Respondent. Shri Chauhan appearing for the Central Government stated that if the 3rd Respondent employer has no objection to the conciliation being reopened, the Central Government will certain have no objection.

5. In the circumstances, we set aside the order passed by the Under Secretary on 30th May 2005 and restore the dispute arising out of the demand raised by the Petitioner to the Regional Labour Commissioner, Central. He will examine the demand of the Petitioner as also the submission of the Respondent No.3 and thereafter decide whether a case is made out for reference to the appropriate authority. He will do the same expeditiously and preferably within three months from the date of receipt of a copy of this order.

6. Rule is made absolute in the above terms.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)